



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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**WILLIAM T FUJIOKA**  
Chief Executive Officer

January 7, 2014

To: Supervisor Don Knabe, Chairman  
Supervisor Gloria Molina  
Supervisor Mark Ridley-Thomas  
Supervisor Zev Yaroslavsky  
Supervisor Michael D. Antonovich

From: William T Fujioka  
Chief Executive Officer

John F. Krattli  
County Counsel

Board of Supervisors  
GLORIA MOLINA  
First District

MARK RIDLEY-THOMAS  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

## **JOINT REPORT OF THE CHIEF EXECUTIVE OFFICE COUNTY RISK MANAGER AND COUNTY COUNSEL LITIGATION COST MANAGER REGARDING ACCOMPLISHMENTS OF FISCAL YEAR 2012-13**

Pursuant to an October 16, 2007 motion by Supervisor Molina, the Board instructed the Chief Executive Officer (CEO) County Risk Manager and County Counsel Litigation Cost Manager to prepare a joint report identifying specific accomplishments during Fiscal Year (FY) 2007-08 that supported the efforts of risk management and reduction of the County of Los Angeles (County) exposure to litigation. Pursuant to the motion, the report is also to identify joint goals and objectives for subsequent fiscal years. As noted on our November 9, 2010 report to the Board, the goals and objectives portion of subsequent reports was separated from this report to be submitted in the Spring. The *Joint Report of Risk Management Goals and Objectives – Fiscal Year 2012-13*, was issued to the Board on October 10, 2012.

In addition, on November 5, 2008, on a motion by Supervisor Molina and as amended by Supervisor Antonovich, the Board directed the CEO, County Counsel, County Risk Manager, and other Department Heads, as appropriate, to create a Legal Exposure Reduction Committee (LERC) that shall meet quarterly; establish an annual Countywide and departmental legal exposure reduction goal; create proactive County Counsel procedures to advise departments on various methods to reduce legal cost; create procedures to discuss areas of potential exposure; develop and implement specific strategies calculated to prevent future claims and lawsuits; provide updated training on new changes in laws and policies for each appropriate department to implement; assess the efficacy of corrective action plans; review management training and implementation of County policies; review lessons learned; discuss areas of potential exposure; and report annually on their progress and efforts.

*"To Enrich Lives Through Effective And Caring Service"*

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The attached Joint Report responds to both of these directives since the LERC's activities represent one of the joint efforts between the CEO and County Counsel. Identified in the report are joint accomplishments of FY 2012-13, which demonstrate the continuing, collaborative efforts of the CEO and County Counsel to manage the County's risks and reduce its litigation exposure.

If you have any questions or need additional information, your staff may contact Steven T. Robles, County Risk Manager, at (213) 351-5346, or Steven H. Estabrook, Litigation Cost Manager, at (213) 974-1762.

WTF:JFK:BC  
STR:SHE:sg

Attachment

c: All Department Heads

**JOINT REPORT  
CHIEF EXECUTIVE OFFICE COUNTY RISK MANAGER AND  
COUNTY COUNSEL LITIGATION COST MANAGER  
REGARDING ACCOMPLISHMENTS OF FISCAL YEAR 2012-13**

**Legal Exposure Reduction Committee**

The Legal Exposure Reduction Committee (LERC) has become the forum for departments to share best practices and identify new solutions to common risk-related problems. LERC is also the vehicle for advancing the County of Los Angeles (County) Strategic Plan relative to the Risk Management Initiative focused on reducing the cost of workers' compensation and return-to-work (RTW) programs, vehicle liability, and employment practices liability.

LERC met six times during FY 2012-13, and some of the items discussed included:

- Status updates from its following Sub-Committees:
  - Classification Studies
  - Employment Practices Liability
  - Medical Malpractice (Hospital and Non-Hospital)
  - Training and Communication
  - Vehicle Liability
  - Workers' Compensation and Return-to-Work
- Introduction of the enterprise risk model to LERC members;
- Collaboration of essential elements of data analysis and risk mitigation techniques;
- Organizational information on strategic initiatives and LERC member participation;
- Updates on recommendations submitted by the various Sub-Committees and County Counsel;
- A review of the top-paid judgments and settlements;
- Departmental Risk Management Overview presentations to the Board Deputies; and
- Announcements about various training opportunities, including training for Risk Management Coordinators, Safety Officers, and RTW Coordinators.

While several topics on Risk Management collaboration were discussed this fiscal year at LERC and at the various Sub-Committees, the accomplishments of LERC, County Counsel, and the Chief Executive Office (CEO), as it pertains to risk identification, analysis, and mitigation, can be summarized as follows:

**Patient Safety Net**

The Patient Safety Net project consists of the implementation of a web-based, multi-user, robust, secure risk management data platform that is user friendly and allows for the creation of queries and reports, captures significant adverse events, corrective actions, surveys, and litigation costs resulting in a safer, more efficient health system.

Through this LERC initiative, all County departments that provide medical services to patients (Health Services, Mental Health, Public Health, Fire, Sheriff) are purchasing the Event Reporting Module. Health Services and Public Health already have this reporting system in place and are updating to the new system.

## Patient Safety Net (Continued)

The importance of this cross-communication ability as a risk management tool is significant. If an incident occurs, employees can enter the information in the system, including anonymous reports. All reports are sent to the department's management staff, which triggers investigations and corrective actions. Corrective actions are recommended by the system depending on the type of incident. This system of reporting and corrective actions without the necessity of claims or lawsuits to trigger action is the preferred preventative risk management measure.

Reporting is a key issue in the healthcare systems and strongly encouraged by the County of Los Angeles Board of Supervisors (Board). LERC has facilitated the Board's approval of the Department of Health Services' contract for the implementation of this system in the five medical services departments. Therefore, these departments will be using the same system for reporting medical services issues Countywide. As a Countywide initiative, this project will now be hosted with application support by the Internal Services Department, with oversight from the Chief Information Office.

## **Communications**

Several risk management communications that were initiated through LERC, CEO, and County Counsel were distributed to all County Departments in 2013, as follows:

- The Employment Liability Sub-Committee worked in collaboration with the Department of Human Resources on the successful distribution of "*The County Counsel Corner*."
- Guidelines to improve the application of Civil Service Rule 16 have been fully implemented at the Department of Health Services. Training material was developed and training was provided to RTW Coordinators, Risk Management Coordinators, and Departmental Human Resources Managers.
- Several "*Risk Alert!*" technical newsletters were distributed Countywide to highlight departmental best practices and provide periodic risk management updates.
- CEO and County Counsel collaborated with departments to address the exposures addressed in the Litigation Cost Manager's 2012 Annual Litigation report. Each department, along with CEO, responded to the recommendations and made adjustments as necessary.

## **LERC Strategic Initiative**

As management oversight changed mid-year, considerable attention throughout the remainder of the year focused on a new direction for LERC and the objectives of the committee leading into 2014. As such, the executives of the top seven high-risk departments have committed key personnel to assist the CEO and County Counsel in aligning LERCs objectives with the County's strategic risk initiatives.

## LERC Strategic Initiative (Continued)

Going forward, LERC will evolve as follows:

- Include core principles which reflect a strategic approach to risk that involves, and is understood by, all levels of management.
- Function as the strategic risk committee, working in concert with, and not independent of, County risk committees, review boards, safety committees, and departmental risk managers.
- Provide oversight and direction as the core organizational catalyst to involve key stakeholders in formulating risk management strategy.
- Analyze risk metrics, indicators, and driver information to further understand the correlation between risks and the County's Strategic Goals, and develop risk strategies across the enterprise.
- Align best practices with pertinent risk metrics, enabling the mitigation of risks as they begin to trend.

## **CEO and County Counsel Collaboration**

CEO and County Counsel have worked diligently over the years to form a collaborative relationship to the betterment of the County. In 2013, the CEO hired a new Risk Manager to further this relationship and develop long-term goals and objectives that meet the CEO's strategic initiatives and comply with the applicable legal requirements pursuant to the advice of County Counsel. To that end, the CEO and County Counsel have enhanced existing and several newly-formed partnerships, as follows:

- The County Risk Manager and the Senior Assistant County Counsel have a standing, bi-monthly meeting to discuss risk management initiatives and collaborative efforts regarding claims, lawsuits, and corrective actions.
- Teams from both the CEO and County Counsel, with expertise in information technology, management systems, and risk management, meet bi-monthly to consider issues relating to the migration of risk management data from the current Risk Management Information System (RMIS) to the newly acquired T360 Matter Management Database and the implementation of the T360 System as the new County liability claims administrator database.
- County Counsel participates with CEO by providing expertise in Americans with Disability Act/Fair Employment and Housing Act fields in training in the "*Return-to-Work 101*" course delivered several times per year to RTW Coordinators.
- Seminars held by CEO that include workers' compensation and disability management have regular participation from County Counsel, who serves as subject matter experts.
- CEO, in collaboration with County Counsel, participates in hundreds of roundtable discussions covering workers' compensation, disability management, and liability, every year.

### **Dual Liability - Employment and Workers' Compensation Cases**

In FY 2012-13, County employees, from no less than 16 different departments, filed 74 new Employment actions against the County. A number of these employees had previously filed Workers' Compensation claims or petitions against the County. Some had pending Workers' Compensation actions. During the course of these Workers' Compensation actions, a considerable wealth of information was developed, some of which was helpful in the defense of an Employment action brought against the County by the same employee. Such information can shed additional light on specific factual allegations asserted by the employee in the Employment action, provide an enhanced picture of alleged medical conditions and damages, and reveal possible contradictory assertions which could potentially lead to stronger defenses in both forums.

In an effort to utilize the information obtained through the Workers' Compensation process, the CEO developed a report that links Workers' Compensation matters with Employment actions brought by the same employee and utilizes the information at roundtable discussions to facilitate the exchange of information and documentation among those involved in the defense of both Employment and Workers' Compensation actions. County Counsel also employs the information from the report to defend Employment-litigated matters and to achieve "global" settlements encompassing both Workers' Compensation and Employment liability. To further these efforts, County Counsel prepared a research memorandum setting forth the permissible legal parameters for the exchange of information between Workers' Compensation and Employment counsel. County Counsel also provided seminars for Workers' Compensation and Employment Contract Counsel explaining the interaction between County Employment and Workers' Compensation matters, including the feasibility of global settlements in the Workers' Compensation forum. County Counsel has also strengthened communication between the Workers' Compensation Division and the Labor and Employment Division in order to more effectively handle cases involving employees with cases in both the Workers' Compensation and Employment areas. To that end, every new Workers' Compensation action is reviewed for allegations which might indicate an existing or potential Employment action. When such an indication is discovered, the Workers' Compensation Division alerts the Labor and Employment Division of the claimant's name, department, and the County Workers' Compensation defense counsel. CEO and County Counsel continually seek to improve this process, including discussions between the County Risk Manager and the Senior Assistant County Counsel at the Claims Board level and as specific case resolution opportunities arise.

### **Claim Intake and Adjusting Process**

The CEO and County Counsel participated in a joint effort to evaluate the roles and responsibilities of the CEO, County Counsel, and the Third Party Administrator (TPA) in the handling of claims intake and the claims adjustment process. Consideration was given to shifting certain functions performed by County Counsel to CEO and the TPA. At the conclusion of the assessment, it was determined that a realignment of the departments' roles and responsibilities was not warranted. However, it was determined that a better collaboration of how claims are classified for predictive analysis and risk mitigation techniques was warranted. Therefore, claim systems are being updated with a new classification system.

### **Case Type Identification**

The CEO and County Counsel have joined in an effort to accurately identify the various "types" of cases filed against the County. This effort included meetings with each County Counsel Division Chief, as well as an extensive review of previous case types utilized on the RMIS. The purpose of this coordinated effort is to establish a multi-tier case identification matrix within the new T360 Matter Management Database which permits a thorough and useful analysis of risk expenditures.

### **Employment Liability and Litigation Cost Control**

In collaboration with the County Risk Manager, the County Counsel Litigation Cost Manager and the County Counsel Labor and Employment Division Chief identified a "short list" of eight County departments which generated the majority of expenses related to Employment litigation. After reviewing the analysis contained in the Annual Litigation Report for each targeted department, together with the information maintained in the Labor and Employment Division, it was determined that three departments (Fire, Sheriff, Probation) required immediate attention. To that end, the Labor and Employment Division Chief and attorney staff conducted a series of meetings with the Fire Chief, the Chief Probation Officer, and their executive staffs, as well as the executive staff of the Sheriff's Department involved in risk management and advocacy, to discuss and implement additional County Counsel services and/or tools to assist the departments in controlling their litigation costs. As a result of these meetings, the Fire Department's Risk Management Leadership team initiated new case review and investigation criteria, as well as identified the need for "out-stationed" attorneys to be housed at the Fire Department. Thereafter, a County Counsel Senior Deputy was assigned part-time to the Department and consideration was given to full-time placement. Two new County Counsel Deputy attorneys were also hired and "out-stationed" at the Probation Department. As a result of the meetings with the Probation Department, the duties of these attorneys have been expanded to include human resources advice, return-to-work coordination, and employee relations. The newly assigned deputies have made a significant impact on the positive resolution of multiple matters before litigation or administrative action was initiated. After the meetings with the Sheriff's Department executive staff, the three-member County Counsel Attorney Advocacy Team stationed at the Sheriff's Department began assisting in the review of organizational changes in order to mitigate exposure to liability for transfers, demotions, and discharges. The team's efforts also include policy review, creation of new processes for the review and assignment of complaints, and advocacy inquiries.

### **Wage-and-Hour Issues**

Three departments with a history of wage-and-hour actions were identified by the Risk Manager and the Litigation Cost Manager. A committee, consisting of the Labor and Employment Division Chief and staff attorney, together with the County Department of Human Resources, developed a protocol for the review of departmental overtime policies. These protocols set forth specific requirements, such as the request and receipt of advance authorization for overtime, discipline for failure to request and receive advance authorization for overtime, payment of overtime in the absence of authorization, and accuracy in documenting overtime. The overriding goals of these protocols were to: (1) ensure that the County complies with all Fair Labor Standards Act overtime requirements, (2) notify employees and supervisors that employees must be paid for all overtime worked regardless of pre-approval, and (3) discipline those employees who fail to properly obtain or provide advance approval for overtime. The committee then assembled the overtime policies for not only the targeted departments, but also the policies for every department within the County. These policies were then reviewed for compliance with the protocols, and departments were informed of deficiencies.

### **Roundtable Video Conference**

In conjunction with the CEO and the TPAs, County Counsel initiated, organized, and hosted a department-wide roundtable video conference demonstration. The purpose of the demonstration was to explore cost-savings permitted by the use of video conferences, including contract counsel charges for travel and waiting time, departmental personnel travel time and expenses, and scheduling costs. A number of actual roundtables were conducted via video conference, demonstrating the availability, convenience, and efficiencies afforded by video technology. Overall, the demonstration was well received and a cost analysis is being conducted to determine the feasibility of expanding video conference capability to include more roundtables.

### **2013 Los Angeles County Management Council**

In June 2013, the County Risk Manager and the County Counsel Litigation Cost Manager presented at the 2013 Los Angeles County Management Council. The Risk Manager introduced himself, provided some background information to the group, and focused his presentation on the core principles of, and the County's strategic approach to, risk management. The presentation emphasized the involvement of all levels of management and every key stakeholder in formulating the County's risk management strategy. The Litigation Cost Manager's presentation, entitled *Management's Role in Litigation Cost Control*, included a discussion of specific expenses related to numerous departments, an examination of various types of cases affecting the departments with the highest expenses, an audience participatory "quiz" regarding litigation facts, and cost-savings tips for managers regarding Employment litigation expenses. In their presentations, the County Risk Manager and the Litigation Cost Manager emphasized the joint efforts of the CEO and County Counsel to elevate the role of managers throughout the County in promoting risk management awareness.